

MINUTES

NEVADA STATE BOARD OF OPTOMETRY  
REGULAR MEETING

OCTOBER 15<sup>TH</sup>, 2004  
UNIVERSITY OF NEVADA, LAS VEGAS  
MEETING ROOM A, THOMAS & MACK CENTER  
4505 MARYLAND PARKWAY  
LAS VEGAS, NEVADA 89154

DR. ALLEMAN ASKED FOR PUBLIC COMMENT. THERE WAS NO PUBLIC COMMENT.

A REGULAR MEETING OF THE NEVADA BOARD OF OPTOMETRY WAS CALLED TO ORDER BY BOARD PRESIDENT, KURT G. ALLEMAN, O.D., AT 10:00 O'CLOCK A.M. ON OCTOBER 15<sup>TH</sup>, 2004, IN MEETING ROOM A, THOMAS & MACK CENTER, UNIVERSITY OF NEVADA, LAS VEGAS, 4505 MARYLAND PARKWAY, LAS VEGAS, NEVADA.

IDENTIFYING THEMSELVES AS PRESENT WERE:

KURT G. ALLEMAN, O.D., BOARD PRESIDENT  
BRAD C. STEWART, O.D., BOARD MEMBER  
JACK SUTTON, O.D., BOARD MEMBER  
GEORGE BEAN, BOARD MEMBER  
JUDI KENNEDY, EXECUTIVE DIRECTOR  
MARK MARSH, ESQ.

ALSO PRESENT WERE:

LESA DAVIS, O.D.  
GREGORY CORTESE, ESQ.  
ALYSSA HARVEY, EXECUTIVE DIRECTOR,  
NEVADA OPTOMETRIC ASSOCIATION  
JEANETTE BELZ, NEVADA OPHTHALOMOLOGICAL SOCIETY

THE MINUTES OF THE BOARD'S AUGUST 4<sup>TH</sup>, 2004, MEETING WERE

PRESENTED FOR APPROVAL. MR. BEAN MOVED THE MINUTES BE APPROVED AS DRAFTED. DR. SUTTON SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

NOTING THE PRESENCE OF DR. LESA DAVIS, AND HER ATTORNEY, GREGORY CORTESE, DR. ALLEMAN MOVED TO AGENDA ITEM 8, THE COMPLAINT OF JUDI D. KENNEDY, AS EXECUTIVE DIRECTOR VS. LESA D. DAVIS, O.D. DR. ALLEMAN ACKNOWLEDGED THERE HAD BEEN AN ANSWER FILED ON BEHALF OF DR. DAVIS BY HER ATTORNEY, MR. CORTESE, AND ASKED IF DR. DAVIS AND HER ATTORNEY WISHED TO ADDRESS THE BOARD.

DR. DAVIS STATED IT WAS HER DESIRE TO BE COMPLIANT WITH THE REQUIREMENTS OF THE LAW GOVERNING CO-MANAGEMENT AGREEMENTS WITH OPHTHALMOLOGISTS IN SURGICAL SITUATIONS. MR. CORTESE SAID HE BELIEVED THE LAW IS AMBIGUOUS, AND THAT HE WAS GOING TO REDRAFT THE CO-MANAGEMENT AGREEMENT CURRENTLY BEING USED BY DR. DAVIS. THERE ENSUED A DISCUSSION BETWEEN DR. DAVIS, MR. CORTESE, AND THE MEMBERS OF THE BOARD. DR. STEWART EXPRESSED CONCERN THAT THE ANSWER FILED BY MR. CORTESE HAD NOT BEEN RECEIVED UNTIL JUST PRIOR TO THE MEETING, AND HE DID NOT FEEL HE HAD HAD SUFFICIENT TIME TO REVIEW IT. MR. CORTESE RESTATED THAT HE WOULD BE REDRAFTING

THE CO-MANAGEMENT AGREEMENT, ADDING HE WOULD ALSO BE REDRAFTING THE SUBLEASE AGREEMENT BETWEEN DR. DAVIS AND THE CORPORATE ENTITY, LASIK NEVADA. MR. MARSH INTERJECTED IF THE AGREEMENTS WERE REDRAFTED SO THERE WAS NO APPEARANCE THAT DR. DAVIS WAS EMPLOYED BY THE CORPORATION, THERE WOULD REMAIN A VIOLATION OF THE LAW IF SHE WERE EMPLOYED BY AN OPHTHALMOLOGIST. AFTER FURTHER DISCUSSION, DR. SUTTON MOVED A FORMAL ACCUSATION BE FILED AGAINST DR. DAVIS. DR. ALLEMAN ASKED FOR DISCUSSION. DR. DAVIS AND MR. CORTESE EXPRESSED THEIR DESIRE TO RESOLVE THE MATTER. DR. SUTTON POINTED OUT THE COMPLAINT ON FILE HAD BEEN THE RESULT OF SIX MONTHS OF INQUIRIES. DR. STEWART SECONDED THE MOTION. THE VOTE WAS UNANIMOUS. DR. ALLEMAN THANKED DR. DAVIS AND MR. CORTESE FOR TAKING THE TIME TO ATTEND THE MEETING.

THE BOARD MOVED BACK TO AGENDA ITEM 3, THE ACCUSATION OF JUDI D. KENNEDY, AS EXECUTIVE DIRECTOR VS. JEFFREY D. FERRIS, O.D. DR. ALLEMAN RECALLED FOR THE MEMBERS THAT DR. FERRIS HAD STIPULATED TO THE PAYMENT OF AN ADMINISTRATIVE FINE, AND TO THE TWO [2] DAY SUSPENSION OF LICENSE. DR. ALLEMAN CONTINUED, STATING, DR. FERRIS FAXED NOTICE TO THE BOARD OFFICE ON MAY 25<sup>TH</sup>, 2004, THAT HIS OFFICE WOULD BE CLOSED MAY 25<sup>TH</sup>, AND MAY 26<sup>TH</sup>,

2004, FRIDAY AND SATURDAY OF THE MEMORIAL DAY WEEKEND. DR. SUTTON STATED THE CLOSING OF DR. FERRIS' OFFICE FOR TWO DAYS ON A HOLIDAY WEEKEND DID NOT COMPLY WITH THE PUNITIVE INTENT OF THE SUSPENSION. AFTER DISCUSSION THE BOARD DIRECTED MS. KENNEDY TO INSPECT DR. FERRIS' OFFICE TO DETERMINE HIS NORMAL DAYS AND HOURS OF OPERATION. THEREAFTER MS. KENNEDY WAS DIRECTED TO WRITE A LETTER TO DR. FERRIS ORDERING THAT: [1] HE CLOSE HIS OFFICE FOR TWO SPECIFIC REGULAR BUSINESS DAYS, NOT IN CONGRUENCE WITH A HOLIDAY; [2] HE HAVE 10 DAYS TO ADVISE THE BOARD IF HE OBJECTED TO THE DAYS CHOSEN; AND [3] IF, WITHIN THE 10 DAYS, DR. FERRIS FILED AN OBJECTION, THE CASE WOULD BE REOPENED.

THE BOARD NEXT CONSIDERED AGENDA ITEM 4, THE ACCUSATION OF JUDI D. KENNEDY, AS EXECUTIVE DIRECTOR VS. AMEL Y. AFIFI, O.D., ALLEGING DR. AFIFI HAD COMMENCED USING A FICTITIOUS NAME WITHOUT FIRST HAVING OBTAINED THE REQUIRED CERTIFICATE FROM THE BOARD. MS. KENNEDY ADVISED THE BOARD THAT SUBSEQUENT TO THE FILING OF THE COMPLAINT, DR. AFIFI HAD SUBMITTED THE PROPER PAPERWORK, AND HAD RECEIVED THE REQUIRED CERTIFICATE. MS. KENNEDY STATED FURTHER DR. AFIFI HAD PAID THE PROPOSED ADMINISTRATIVE FINE. DR. STEWART MOVED THE ACCUSATION BE RESOLVED BASED ON RESOLUTION. MR. BEAN

SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD CONTINUED WITH AGENDA ITEM 5, THE COMPLAINT OF JUDI D. KENNEDY, AS EXECUTIVE DIRECTOR VS. JANET CORBIT-DRAKULICH, O.D., ALLEGING DR. CORBIT-DRAKULICH HAD COMMENCED USING A FICTITIOUS NAME WITHOUT FIRST HAVING OBTAINED THE REQUIRED CERTIFICATE FROM THE BOARD. MS. KENNEDY ADVISED THE BOARD THAT SUBSEQUENT TO THE FILING OF THE COMPLAINT, DR. CORBIT-DRAKULICH HAD SUBMITTED THE PROPER PAPERWORK, AND HAD RECEIVED THE REQUIRED CERTIFICATE. MS. KENNEDY STATED FURTHER DR. CORBIT-DRAKULICH HAD PAID THE PROPOSED ADMINISTRATIVE FINE. DR. STEWART MOVED THE COMPLAINT BE DISMISSED BASED ON RESOLUTION. MR. BEAN SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD NEXT CONSIDERED AGENDA ITEM 6, THE COMPLAINT OF JUDI D. KENNEDY, AS EXECUTIVE DIRECTOR VS. ROBERT M. WLODEK, O.D., ALLEGING DR. WLODEK HAD COMMENCED USING A FICTITIOUS NAME WITHOUT FIRST HAVING OBTAINED THE REQUIRED CERTIFICATE FROM THE BOARD. MS. KENNEDY ADVISED THE BOARD THAT SUBSEQUENT TO THE FILING OF THE COMPLAINT, DR. WLODEK HAD SUBMITTED THE PROPER PAPERWORK, AND HAD RECEIVED THE REQUIRED CERTIFICATE. MS. KENNEDY STATED FURTHER DR. WLODEK HAD PAID THE PROPOSED ADMINISTRATIVE FINE. DR. SUTTON MOVED

THE COMPLAINT BE DISMISSED BASED ON RESOLUTION. DR. STEWART SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD CONTINUED WITH AGENDA ITEM 7, THE COMPLAINT OF JUDI D. KENNEDY, AS EXECUTIVE DIRECTOR VS. VAN T. TRAN, O.D., ALLEGING DR. TRAN HAD COMMENCED USING A FICTITIOUS NAME WITHOUT FIRST HAVING OBTAINED THE REQUIRED CERTIFICATE FROM THE BOARD. MS. KENNEDY ADVISED THE BOARD THAT SUBSEQUENT TO THE FILING OF THE COMPLAINT, DR. TRAN HAD SUBMITTED THE PROPER PAPERWORK, AND HAD RECEIVED THE REQUIRED CERTIFICATE. MS. KENNEDY STATED FURTHER DR. TRAN HAD PAID THE PROPOSED ADMINISTRATIVE FINE. MR. BEAN MOVED THE COMPLAINT BE DISMISSED BASED ON RESOLUTION. DR. SUTTON SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD MOVED TO AGENDA ITEM 8, THE COMPLAINT OF STEVEN L. SMITH VS. JASON BOLENBAKER, O.D. DR. ALLEMAN OUTLINED THE ALLEGATIONS OF THE COMPLAINT, WHICH INCLUDED AN ASSERTION MR. SMITH'S EYEGLOSS LENSES HAD BEEN SCRATCHED BY DR. BOLENBAKER DURING HIS EYE EXAMINATION. DR. STEWART NOTED MR. SMITH HAD ADVISED THE BOARD THE SCRATCHED LENSES HAD BEEN REPLACED. DR. SUTTON MOVED THE COMPLAINT BE DISMISSED BASED ON RESOLUTION. DR. STEWART SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD REVIEWED AGENDA ITEM 10, AUGUST 10<sup>TH</sup>, 2004, CORRESPONDENCE FROM MAYNARD MILLER, O.D. DR. MILLER HAD FAILED TO ATTAIN THE REQUIRED SCORE OF 75 ON TWO SECTIONS OF THE EXAMINATION OF THE NATIONAL BOARD OF EXAMINERS IN OPTOMETRY. DR. MILLER, THROUGH HIS CORRESPONDENCE, HAD REQUESTED THE BOARD PURSUE SEVERAL AVENUES THAT HE FELT MIGHT ENABLE HIM TO BE LICENSED IN NEVADA WITHOUT HAVING TO RETAKE THE EXAMINATIONS. THE BOARD NOTED THE REQUIRED SCORE OF 75 OR HIGHER WAS A STATUTORY REQUIREMENT, AND THAT IT HAD NO DISCRETION IN THE MATTER. THE BOARD DIRECTED MS. KENNEDY WRITE TO DR. MAYNARD ADVISING HIM THUS, AND SUGGESTING HE RETAKE THE EXAMINATIONS.

THE BOARD DISCUSSED THE ISSUANCE, BY THE ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY [ARBO], OF OE TRACKER CARDS WHICH WOULD BE USED TO TRACK CONTINUING EDUCATION CREDITS. THE BOARD REVIEWED CORRESPONDENCE BETWEEN MS. KENNEDY AND ARBO, NOTING MS. KENNEDY'S OBJECTIONS TO THE ISSUANCE OF THE CARDS BASED ON THE PROBLEMS AND CONFUSION THAT WOULD RESULT. THE BOARD DIRECTED MS. KENNEDY TO PREPARE, FOR THE SIGNATURE OF EACH MEMBER OF THE BOARD, A LETTER OF PROTEST OUTLINING THE BOARD'S OPPOSITION. THE BOARD ALSO DIRECTED MS. KENNEDY TO MAINTAIN A LOG OF

TELEPHONE CALLS RECEIVED AT THE BOARD OFFICE FROM NEVADA LICENSEES SEEKING INFORMATION AND CLARIFICATION REGARDING THE CARDS.

THE BOARD DISCUSSED THE SUBMISSION OF CONTINUING EDUCATION COURSES THAT HAD NOT BEEN APPROVED BY COPE, BUT WERE DESIGNATED "COPE PENDING." THE BOARD DETERMINED THE COURSES WOULD NOT BE ACCEPTED, BUT COULD BE RESUBMITTED, FOR CREDIT, ONCE THE COURSE HAD RECEIVED COPE APPROVAL.

THE BOARD REVIEWED THE BOARD-S 2004-05 BUDGET. MR. BEAN MOVED THE BUDGET BE APPROVED. DR. SUTTON SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD REVIEWED THE PROPOSED CONTRACT FOR LOBBYING FOR THE 2005 LEGISLATIVE SESSION. DR. STEWART MOVED THE CONTRACT BE APPROVED. DR. SUTTON SECONDED THE MOTION. THE VOTE WAS UNANIMOUS.

THE BOARD REVIEWED THE BROCHURE FOR THE 2005 FARB CONVENTION. THE BOARD DIRECTED MS. KENNEDY TO ATTEND THE CONVENTION.

DR. ALLEMAN ASKED FOR PUBLIC COMMENT.

MS. BELZ STATED IF THE BOARD WANTED TO INTRODUCE LEGISLATION TO STRENGTHEN THE LANGUAGE OF THE STATUTE PERTAINING TO THE CO-MANAGEMENT OF PATIENTS IN SURGICAL



SITUATIONS, SHE WOULD BE HAPPY TO APPROACH HER CLIENT, THE NEVADA OPHTHALOMOLOGICAL SOCIETY, REGARDING SUPPORT FOR ANY SUCH LEGISLATION. DR. ALLEMAN THANKED MS. BELZ FOR HER COMMENT.

THE BOARD SCHEDULED A REGULAR MEETING FOR FRIDAY, JANUARY 21<sup>ST</sup>, 2005, IN RENO, NEVADA.

MR. BEAN MOVED THE MEETING ADJOURN. DR. STEWART SECONDED THE MOTION. THE VOTE WAS UNANIMOUS. THE MEETING ADJOURNED AT 11:10 A.M.